

PROVIDING FOR THE CONSIDERATION OF H.R. 2149, THE
OCEAN SHIPPING REFORM ACT

APRIL 30, 1996.—Referred to the House Calendar and ordered to be printed

Mr. QUILLEN, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 419]

The Committee on Rules, having had under consideration House Resolution 419, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTIONS

The resolution provides for the consideration of H.R. 2149, the “Ocean Shipping Reform Act” under an open rule. The rule provides one hour of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation.

The rule provides for the consideration of a manager’s amendment to be printed in part 1 of the report of the Committee on Rules to accompany the resolution, which is considered as read, may amend portions of the bill not yet read for amendment, is debatable for 10 minutes equally divided between the proponent and an opponent, and shall not be subject to amendment or to division of the question. If adopted, the amendment is considered as part of the base text for further amendment purposes.

Additionally, the rule waives clause 7 of rule XVI (germaneness) against the manager’s amendment printed in part 1 of the report.

The rule provides that the bill, as amended, shall be considered by title rather than by section, and that the first section and each title shall be considered as read.

Members who have pre-printed their amendments in the Record prior to their consideration will be given in recognition to offer their amendments if otherwise consistent with House rules.

The rule further provides that the amendment printed in part 2 of the report shall be considered as read, may amend portions of the bill not yet read for amendment, shall not be subject to amend-

ment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

Finally, the rule provides for one motion to recommit, with or without instructions.

PART 1

MANAGER'S AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHUSTER OF PENNSYLVANIA OR HIS DESIGNEE

Page 3, line 3, strike “rates;” and insert “rates, charges, classifications, rules, and practices;”.

Page 3, line 19, strike “or” and insert “and”.

Page 10, line 17, strike the closing quotation marks and the final period.

Page 10, after line 17, insert the following:

“(4) The requirements and prohibitions concerning contracting by conferences contained in sections 5(b)(9) and (10) of this Act shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this Act.”.

Page 10, line 23, strike “(4)” and insert “(5)”.

Page 14, after line 19, insert the following:

(A) by striking subsection (c)(1) and inserting the following:

“(1) boycott, take any concerted action resulting in an unreasonable refusal to deal, or implement a policy or practice that results in an unreasonable refusal to deal;”;

Page 14, line 20, strike “(A)” and insert “(B)”.

Page 14, line 23, strike “(B)” and insert “(C)”.

Page 14, line 25, insert “and” at the end.

Page 15, line 3 strike “; and” and insert a period.

Page 15, strike lines 4 through 9.

Page 19, strike lines 4 through 25 and insert the following:

(1) by striking subsection (a) and inserting the following:

“(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder’s license to any person that the Commission determines to be qualified by experience and character to render forwarding services.”;

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following:

“(b) FINANCIAL RESPONSIBILITY.—

“(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

“(2) A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under this Act or order for reparation issued pursuant to section 11 or 14 of this Act.

“(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.”;

(4) in subsection (c), as redesignated by paragraph (2) of this section, by striking “a bond in accordance with subsection (a)(2)” and inserting “a bond, proof of insurance, or other surety in accordance with subsection (b)(1)”; and

(5) in subsection (e), as redesignated by paragraph (2) of this section—

(A) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(B) by adding at the end the following:

“(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

“(A) deny to any member of the conference or group the right, upon notice of not more than 3 business days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

“(B) agree to limit the payment of compensation to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of this Act, and which are assessed against the cargo on which the forwarding services are provided.”.

Page 24, line 15, strike “United States carriers” and insert “one or more ocean common carriers”.

Page 24, strike lines 19 through 24 and insert the following:

“(h)(1) The Secretary shall issue regulations by June 1, 1997, that prescribe procedures and requirements governing the submission of price and other information necessary to enable the Secretary to determine under subsection (g) whether prices charged by carriers are unfair, predatory, or anticompetitive.

“(2)(A) If information provided to the Secretary under this subsection does not result in a finding by the Secretary of a violation of this section or enforcement action by the Secretary, the information may not be made public and shall be exempt from disclosure under section 552 of title 5, United States Code, except for purposes of an administrative or judicial action or proceeding.

“(B) This paragraph does not prohibit disclosure to either House of the Congress or to a duly authorized committee or subcommittee of the Congress.”.

Page 25, after line 10, insert the following:

SEC. 203. REPORT BY THE SECRETARY.

The Secretary shall report to the Congress by January 1, 1998, and annually thereafter, on—

(1) actions taken by the Secretary under the Foreign Shipping Practices Act of 1988 (46 App. U.S.C. 1710a) and section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708); and

(2) the effect on United States maritime employment of laws, rules, regulations, policies, or practice of foreign governments, and any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country, that adversely affect the operations of United States carriers in United States oceanborne trade.

Page 25, strike line 14 and all that follows through line 4 on page 26 and insert the following:

SEC. 301. AGENCY TERMINATION.

(a) IN GENERAL.—On September 30, 1997, the Federal Maritime Commission shall terminate and all remaining functions, powers, and duties of the Federal Maritime Commission shall be transferred to the Secretary of Transportation.

(b) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Federal Maritime Commission, \$19,000,000 for fiscal year 1997.

PART 2

AMENDMENT TO BE OFFERED BY REPRESENTATIVE OBERSTAR OF MINNESOTA OR HIS DESIGNEE

Page 10, line 23, strike “(5)” and insert “(5)(A)”.

Page 11, line 7, strike the closing quotation marks and the final period.

Page 11, after line 7, insert the following:

“(B) Notwithstanding subparagraph (A), the essential terms of a contract entered into under this section shall be made publicly available electronically in a manner prescribed by the Commission. This subparagraph does not apply to service contracts dealing with bulk cargo, forest products, recycled metal scrap, waste paper, or paper waste.

“(C) For purpose of subparagraph (B), the essential terms of a contract shall include—

“(i) the origin and destination port ranges in the case of port-to-port movements, and the original and destination geographic areas in the case of through intermodal movements;

“(ii) the commodity or commodities involved;

“(iii) the minimum volume;

“(iv) the line-haul rate;

“(v) the duration;

“(vi) service commitments; and

“(vii) the liquidated damages for nonperformance, if any.”.

Page 14, line 11, insert “except as provided by section 8(b)(4)(B),” after “(B)”.

At the end of section 301(a) of the bill insert the following:

The Secretary of Transportation shall delegate such functions, powers, and duties to the Surface Transportation Board.